

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Darwin Brown,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 14-77-0372
Parcel No. 060/00954-001-000

On March 27, 2015, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Darwin Brown was self-represented. Assistant Polk County Attorney Ralph Marasco, Jr. is counsel for the Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Darwin Brown is the owner of a residentially classified property located at 3102 Thompson Avenue, Des Moines, Iowa. The property is improved with a one-and-a-half story home built in 1979, with 1540 square feet of above-grade living area and a deck. It has a full basement with 450 square feet of average quality finish. In 2013, Brown removed an older, smaller garage and replaced it with an 1800 square-foot garage. The site is 0.330 acres.

Brown protested his January 1, 2014 assessment of \$172,000, allocated as \$20,700 in site value and \$151,300 in improvement value to the Polk County Board of Review. The subject is part of an urban revitalization, which results in a taxable value after adjustments of \$149,340. Brown asserted the property was inequitably assessed and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a) and (d). The error claim essentially reasserts his claim of inequity. The

Board of Review denied the petition. Brown then appealed to this Board reasserting his claim of inequity.

Brown submitted two properties he considered for his equity claim.

The first property does not have a street address; it is located on E 35th Street and its parcel number is 060/08859-000-000. This is a 2.44-acre site improved with an eleven-year old, 3200 square-foot pole barn. Because this property lacks any residential improvements, we do not find it sufficiently comparable to the subject property. Moreover, the construction materials and grade of the pole barn, compared to the subject is dissimilar; because of this, the cost to construct would be different from the cost to build the subject garage.

The second property is located at 4600 SW 31st Street, Des Moines, Iowa. It is a one-story residence with an attached one-car garage, as well as four other detached structures. First, we note this property is located on the southwest side of Des Moines, roughly 10 miles from the subject property, which is located on the northeast side of Des Moines. For this reason, we question the reliability of it as an equity comparable as there is no evidence in the record that the subject is a unique property, which would require comparison to properties located in a distant and different area of the Des Moines metro. Regardless, assuming the location does not affect comparability, Brown did not distinguish which of the four detached structures he considered similar to his garage. Assuming his intent was the comparison of either of the two larger structures, we find similar concerns as his previous comparable property. The two larger structures associated with this comparable are metal utility buildings and lower grade (quality) when compared to the subject's garage. Moreover, Brown did not provide any evidence of the fair market value of this property to establish an assessment/sales ratio for analysis.

Brown testified that he estimated the actual cost of his garage was about \$28,000, although he completed much of the work himself. We note the garage has an assessed value of \$25,943. (Exhibit D).

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review. Rasmussen explained that Brown had removed an older garage from the site and built a newer, larger garage. For this reason, the assessment changed from 2013 to 2014.

Moreover, when Brown built the garage he applied for a Plan 1 Abatement. This is a ten-year abatement for 115% of the added value to the assessment. Because Brown removed an improvement before he built the new garage, the actual value added was \$19,700; resulting in an abatement of \$22,660 and a total adjusted taxable value of \$149,340.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions reflecting market value are to be considered in arriving at

market value. §441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Brown offered two properties he considered comparable to his for an equity analysis. However, we do not find the first property identified by parcel number 060/08859-000-000 as sufficiently similar. The second property is located nearly ten miles from the subject property. Assuming the location does not affect its reliability as a comparable, the outbuildings that Brown compares to his are dissimilar in construction and quality. Brown did not provide evidence of his comparables’ actual, current market value for an equity analysis and, ultimately, he has not shown his property is inequitably assessed under the *Maxwell* test. Moreover, Brown did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

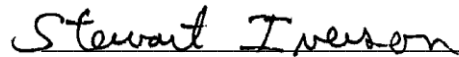
For these reasons, Brown failed to show his property is inequitably assessed as compared to like properties.

THE APPEAL BOARD ORDERS the 2014 assessment of Darwin Brown's property located at 3102 Thompson Avenue, Des Moines, Iowa, set by the Polk County Board of Review, is affirmed.

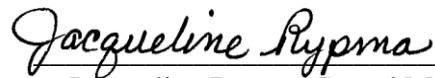
Dated this 6th day of April, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Cc:

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